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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,598	03/30/2004	Clifford E. Martin	14	3233
7590	06/29/2006			
EXAMINER				
BANGACHON, WILLIAM L				
ART UNIT		PAPER NUMBER		
2612				

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/812,598	MARTIN, CLIFFORD E.	
	<b>Examiner</b>	<b>Art Unit</b>	
	William L. Bangachon	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 15 March 2006.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-4,7-11,17-19,21 and 22 is/are rejected.  
7)  Claim(s) 5-6, 12-16, 20-22 is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 15 March 2006 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: *Examiner's comments*.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/25/2006 has been entered.

### ***Terminal Disclaimer***

2. The terminal disclaimer filed on 3/15/2006 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of **USP 6,847,856** has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Drawings***

3. The drawings received on 3/15/2006 in response to Examiner's objections are acceptable.

***Claim Rejections - 35 USC § 112***

4. The claims having been amended, the rejection of claims 1-10 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, is withdrawn.

***Allowable Subject Matter***

5. The indicated allowability of claims 7-11 and 17-19 is withdrawn in view of the newly discovered reference(s) to USP 5,910,776 {Black}, USP 5,729,236 {Falxi} and application 11/401,905. Rejections based on the newly cited reference(s) follow.

***Double Patenting***

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1-3, 9 and 11, are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4 and 14 of copending **Application No. 11/401,995**. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-3 and 9 of the instant application are broader than claim 4 in '995'. And the method of claim 11 is broader than the method of claim 13 in '995'. Narrower claims read on broader claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

#### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

#### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claims 1-4, 11 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,910,776 {Black}.

In claim 1, Black teaches of an apparatus shown in Figures 3-5 for determining connectivity between one or more device ports (i.e. electrical outlets 23, 33, 43) thereof and one or more cable ends (i.e. plugs 22, 32, 42) having corresponding RFID tags (i.e. radio frequency transponder) attached thereto, the apparatus comprising:

means for sensing (i.e. reader 3) with use of a first one of a plurality of RFID antennas (5), said first RFID antenna (5) being in close physical proximity to each of two or more of said plurality of device ports (i.e. electrical outlets 23, 33, 43), whether one or more of said RFID tags attached to said cable ends is in close physical proximity to said first RFID antenna (reader 3); and

means for detecting a connection (i.e. electronic board 4 or tracking system 61) between one of said plurality of device ports (i.e. electrical outlets 23, 33, 43) which is in close physical proximity to said first RFID antenna (5) and a cable end (i.e. plugs 22 or

32 or 42) having a corresponding RFID tag (i.e. radio frequency transponder) attached thereto based on said means for sensing (i.e., reader 3) with use of said first RFID antenna having determined that said corresponding RFID tag (i.e. radio frequency transponder) attached to said cable end (i.e. plug 22 or 32 or 42) is in close physical proximity to said first RFID antenna (5) {col. 3, lines 51-59+}.

In claim 2, one or more of said plurality of device ports (i.e. electrical outlets 23, 33, 43) is in close physical proximity to each of at least two of said plurality of RFID antennas (5), at least one of said plurality of device ports (i.e. electrical outlets 23, 33, 43) which is in close physical proximity to each of at least two of said plurality of RFID antennas (5) being one of said device ports having one of said cable ends connected thereto as shown in Figure 5.

In claim 3, each of said plurality of RFID antennas (5) is in said close physical proximity to each of two or more of said plurality of device ports (i.e. electrical outlets 23, 33, 43) and wherein each of said plurality of device ports (i.e. electrical outlets 23, 33, 43) is in said close physical proximity to each of at least two of said plurality of RFID antennas (5) {col. 4, lines 41-50+}.

In claim 4, the plurality of device ports (i.e. electrical outlets 23, 33, 43) are arranged in a substantially rectangular arrangement comprising a plural number of columns (i.e. at least three columns) of device ports (i.e. electrical outlets 23, 33, 43) and a plural number of rows (at least two rows) of device ports (i.e. electrical outlets 23, 33, 43).

Claim 11 recites a method for practicing the apparatus of claim 1 and therefore rejected for the same reasons.

Claims 19 or 20 recites a method for practicing the apparatus of claim 2 and therefore rejected for the same reasons.

12. Claims 7-10 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,910,776 {Black} in view of USP 5,729,236 {Flaxl}.

With regards to claims 7-8, Black does not disclose an antenna multiplexer, as claimed. Flaxl, in the same field of endeavor (RFID systems), teach of an antenna multiplexer as shown in Figures 2, 3 and 4, for selecting one of said plurality of RFID antennas (12a-n) at a time for sensing RFID information, each of said plurality of RFID antennas (12a-n) being connected to said antenna multiplexer {col. 4, lines 25-30+}. An RFID reader (10) is connected to said antenna multiplexer, said RFID reader (10) for reading said RFID information received based on said sensing of said RFID antennas {col. 4, lines 7-15+}. Flaxl teaches that the antenna multiplexer is advantageous because the antenna system can support receive as well as transmit functions to be multiplexed between different antennas {Flaxl, col. 2, lines 36-44+}. At the time of applicant's invention, it would have been obvious to one of ordinary skill in the art to include an antenna multiplexer (as claimed) in the system of Black because, as taught by Flaxl, the antenna multiplexer is advantageous because the antenna system can support receive as well as transmit functions to be multiplexed between different antennas.

Claim 9 recites the limitations of claim 8 and therefore rejected for the same reasons.

In claim 10, the apparatus of claim 9 further comprising means for communicating across a network (i.e. information network 51) said determination that said cable end is connected to said one of said device ports {Black, col. 4, line 50-col. 5, line 4}.

Claims 17-18 recites a method for practicing the apparatus of claims 7-8 and therefore rejected for the same reasons.

***Allowable Subject Matter***

13. Claims 5-6, 12-16 and 21-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Office Contact Information***

14. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to William L. Bangachon whose telephone number is **(571)-272-3065**. The Examiner can normally be reached on Monday – Thursday, 8:30 AM – 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Wendy Garber can be reached on **(571)-272-7308**. The fax phone numbers for the organization where this application or proceeding is assigned is **5(571) 273-**

**830000** for regular and After Final formal communications. The Examiner's fax number is **(571)-273-3065** for informal communications.

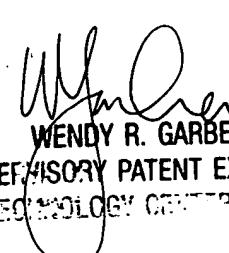
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-6071.



William L Bangachon  
Examiner  
Art Unit 2612

June 26, 2006



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